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## Viewing cable 07LIMA165, HUMAN RIGHTS COURT DECISION CAUSES GARCIA TO

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### Understanding cables

Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

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### Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#07LIMA165**.

Reference ID	Created	Released	Classification	Origin
<a href="#">07LIMA165</a>	<a href="#">2007-01-19 19:46</a>	<a href="#">2011-08-30 01:44</a>	<a href="#">CONFIDENTIAL</a>	<a href="#">Embassy Lima</a>

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C O N F I D E N T I A L LIMA 000165

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SUBJECT: HUMAN RIGHTS COURT DECISION CAUSES GARCIA TO STUMBLE

Classified By: Political Counselor Alexis Ludwig for reason 1.4(d).

¶1. (C) Summary: An Inter-American Court of Human Rights (IACHR) decision requiring the Peruvian government to pay reparations and to apologize for the May 1992 killing of 41 prison inmates (associated with the Shining Path terrorist group) has caused the Garcia administration political problems. Government and APRA representatives have blasted the decision, threatened to pull Peru out of the IACHR, and blamed former President Toledo for failing to represent the interests of the state. Meanwhile, the government is seeking to shape a response that is both politically viable and legally valid -- a difficult balancing act. Most analysts believe President Garcia has uncharacteristically stumbled in his public handling of the case, including when he renewed his support for the death penalty, perhaps out of a concern to shield himself from a future court decision. End Summary.

#### Controversial Court Ruling

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¶2. (SBU) In late December the Inter-American Court of Human Rights issued a series of Peru-related rulings. The most controversial of these was one that held the Government of Peru liable for the May 1992 killing of 41 inmates in Lima's Castro Castro prison. Most observers acknowledge the evidence shows many of the prisoners were executed after surrendering. At the same time, Peruvians maintain vivid memories of the violent and nihilistic Shining Path insurgency that in 1992 controlled vast swaths of the country, including state prisons like Castro Castro. Further muddying the waters, the incident occurred one month after President Alberto Fujimori -- who many Peruvians credit with breaking the back of terrorism -- shut down Congress in the infamous "self-coup" inaugurating a near decade of autocratic and corrupt rule. Wherever one stands on the ambivalent figure of Fujimori, the ruling has generated a thorny political challenge for the Garcia administration.

¶3. (SBU) The key elements of the court's decision have been like salt in a still open wound. The court decreed that the state owed the "victims" a formal apology; that the families of the dead deserved financial compensation; and that the names of the victims should be inscribed in an artistic work -- a large Lima-based stone sculpture called "The Eye That Cries." The idea that the state would reward the principal perpetrators of the era's violence -- the 41 dead prisoners were members of the Shining Path terrorist group -- with an apology, cash and a privileged place in a supposedly apolitical artistic work seems to many Peruvians the height of folly. That none of the 30,000 plus innocent victims of the terrorists themselves, whether poor farmer or humble police officer, has received indemnification of any sort only compounds the political impracticability of the decision. Many observers believe that submitting to the ruling as is would be political suicide for the government.

#### GOP Criticizes Court Excess

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¶4. (C) Government officials and representatives of the ruling APRA party, including President Garcia, have publicly blasted the court's decision as outrageous and characterized the victims of the Castro Castro killings as terrorists. APRA Secretary General Mauricio Mulder stated that Peru should consider pulling out of the IACHR in protest. Government officials have also blamed the government of Alejandro Toledo -- President of Peru during the time the IACHR case ran its course -- for failing to represent the interests of the state, and have threatened to issue a Constitutional motion holding Toledo responsible for this alleged lapse. (Comment: Sources in the Ad-Hoc Prosecutor's office told us that lawyers representing the state in the

case were not given sufficient funding to do their jobs and even, in some cases, to pay for the plane ride to San Jose when relevant hearings were being held. Some analysts have suggested that the Toledo administration may have blundered in conceiving the case as directed against the government of Fujimori -- for whom there was no love lost or responsibility felt -- rather than against the Peruvian state. End Comment.)

15. (C) Meantime, since the court's decision is not subject

to appeal, the government is seeking to shape a response that is both politically viable and legally valid. Its first tactic has been to prepare a formal request for "clarification," to buy time while considering its options. But government officials and legal analysts acknowledge that the administration cannot thumb its nose indefinitely at the court's decision, given the terms of IAHCR membership. According to one foreign ministry official, a range of politico-legal strategies are being contemplated to manage this difficult balancing act. One of these is for the government to set aside in a special escrow-type account the cash to indemnify the "victims," but to condition its dispersal on a similar or proportional amount of money being provided by the terrorist perpetrators to their own multiple victims.

Garcia Stumbles

16. (C) Many analysts believe Garcia has uncharacteristically stumbled in response to the IAHCR ruling. In publicly accusing the court of undermining Peru's democracy, he indiscriminately characterized as a terrorist an individual who has proven to be an authentic victim, and he claimed that hundreds of similar cases faced the Peruvian state in the IAHCR (when in fact there is only one.) Raising the bar, Garcia publicly reiterated a constitutionally questionable proposal to apply the death penalty to terrorists as well as to child rapists. When a series of high-profile political figures publicly challenged this proposal, Garcia dug deeper, calling for a popular referendum on the death penalty. In the end, even Garcia appeared to realize he had gone too far, telling reporters mid January that he would say no more on the subject. Some observers have invoked familiar rumors of Garcia's psychological instability, supposedly aggravated when the political temperature rises, in explaining his apparent political missteps.

17. (SBU) Others suspect more cynical motives in Garcia's public support for the death penalty. Notwithstanding its dubious constitutionality and the consequences to Peru's membership in the IAHCR, the death penalty is supported by a clear majority of Peruvians. Pointing to this fact, Garcia's detractors believe he secretly seeks to have Peru withdraw from the IAHCR in order to shield himself from a future court decision concerning his role in a 1986 prison massacre at El Fronton, which occurred when he was President. Other critics have suggested Garcia is blowing smoke to conceal his administration's lack of concrete progress on other fronts. One congressman told us that, by publicly pursuing the death penalty, Garcia may inadvertently have created the structure of a genuine opposition in congress, which was forced to vote the measure down in a preemptive special session.

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